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SUBJECT: SERBIA: PLANNED CHANGES TO EXTRADITION LAW WOULD RESOLVE  
KOVACEVIC CASE

REF: A) BELGRADE 1250, B) BELGRADE 1124, C) BELGRADE 1116

[1](#)1. (U) This cable contains an action request; see para. 3.

#### Summary

[1](#)2. (SBU) In order to get on the Schengen "white list" for visa-free travel to the European Union, Serbia needs to change its law to permit extradition of its nationals. This change would create a legal basis for the extradition of fugitive Miladin Kovacevic, who is charged with second degree assault in the United States. The Serbian Ministry of Justice recommends that we begin to negotiate the text of a bilateral extradition agreement immediately in order to be able to act quickly to extradite Kovacevic once the law is changed, which they hope will happen in the spring. Kovacevic, who is currently in pre-trial detention in Belgrade on charges filed by the Serbian authorities, may be released in December as the investigative phase of the prosecution is largely complete. Post will continue to try to convince Kovacevic to accept a plea agreement with U.S. prosecutors before he is released. We believe that it is also crucial to pursue the extradition agreement as a fall-back plan. End Summary.

[1](#)3. (SBU) Action Request: Post requests Circular 175 authority to begin discussing a bilateral extradition agreement between Serbia and the United States. End Action Request.

#### Law to Be Changed

[1](#)4. (SBU) In a December 10 meeting, Ministry of Justice State Secretary Slobodan Homen informed us that Serbia must change its extradition law in order to be included in the Schengen "white list" for visa-free travel to the European Union. (At present, the Serbian Constitution is silent on the question of extradition of Serbian citizens, while the Criminal Procedural Code [CPC] forbids it except to international tribunals.) The Serbian government is currently drafting a Law on Cooperation on International Criminal Matters which will supersede the relevant portions of the CPC and permit the extradition of Serbian citizens under the terms of multilateral or bilateral agreements, or when reciprocity exists.

[1](#)5. (SBU) Homen said that the government plans to send the draft law to Parliament in March as part of a second package of judicial

reform legislation (Ref A). He predicted that the law would pass easily with the support of the governing coalition, the Liberal Democratic Party (which typically supports European integration legislation), and possibly even Tomislav Nikolic's Progressive Party. Homen noted that it was fortuitous that EU integration required a change to Serbia's extradition laws, as it would be politically difficult to amend the CPC solely to resolve the Kovacevic case.

#### Desire for Bilateral Extradition Treaty

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¶16. (SBU) Homen proposed that the United States and Serbia begin discussions immediately on a draft bilateral extradition treaty, in order to provide the clearest possible legal basis for Kovacevic's extradition. According to Homen, the new Law on Cooperation on International Criminal Matters will come into force immediately upon passage; Serbia can therefore legally sign extradition agreements as soon as the law is passed. He stated that the Ministry of Justice strongly supported the proposal and would work energetically with us on the draft language. Homen also informed us that President Tadic follows the Kovacevic case closely and is eager to find a mutually acceptable resolution. We agreed to convey the suggestion to Washington and seek guidance.

#### Kovacevic Status

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¶17. (SBU) Kovacevic was detained by the Serbian authorities on October 28 on charges of assault, aiding and abetting the misuse of authority, and use of a false travel document (Refs B and C). On

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November 27, the presiding judge extended his pre-trial detention for an additional 30 days. Kovacevic's attorney Borivoje Borovic appealed the detention on the grounds that the information provided by the USG related to the May 4 assault of Amcit Bryan Steinhauer in Binghamton, New York, was not admissible as evidence in Serbian court. On December 10, the Belgrade District Court hearing the appeal overturned the November 27 decision and returned the case to the Second Municipal Court for reconsideration.

¶18. (SBU) Kovacevic remains in custody for the time being, but Homen believes he will likely be released when the current 30-day term expires on December 28 as the investigation is largely complete. The chief prosecutor of the Belgrade District Court told us December 10 that Kovacevic could be released "within a few days." Homen assured us that the Serbian prosecution of Kovacevic would continue even after his release, but noted that it would be impossible to pursue the assault charges without additional evidence from the United States. The other two charges related to obtaining a false travel document could result in a maximum sentence of two to three years, he said; investigators have found no evidence of bribery of the Serbian vice consul, despite earlier suspicions.

¶19. (SBU) Over the past month, post has organized three conference calls between Borovic, the Department of Justice, and the Broome County prosecutor to discuss the possibility of a plea bargain. Borovic has told us that his client is not yet willing to negotiate, but has left the door open to further discussions. The Ministry of Justice informed Borovic of the plans to change the extradition law, a step which Borovic criticized as "unconstitutional" in the press. (Comment: Borovic is one of Serbia's top defense lawyers. Despite his fiery public rhetoric, he undoubtedly understands the political reality that passage is likely and the implications for his client. End Comment.) Homen has agreed to facilitate another meeting for us with Kovacevic's family, where we will explain once again why their son should take a plea agreement now rather than facing the maximum sentence later.

#### Comment

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¶10. (SBU) Serbia's intention to permit the extradition of its citizens is a very positive development for both the rule of law and the Kovacevic case. Given frequent allegations from Kovacevic's defenders that the United States is inappropriately influencing the Serbian judicial system, it is particularly good news that this change is occurring for reasons that have nothing to do with the United States and that are a top priority for the majority of Serbian citizens - visa-free travel. We urge extreme caution in public and private statements to avoid creating any impression of USG involvement in the decision to change the law, as that would greatly complicate the parliamentary approval process. Post looks forward to Department guidance on the Serbian proposal to conclude a bilateral extradition agreement. End Comment.

MUNTER